

MINUTES

June 25, 2003

The State Board of Registration for Professional Engineers and Land Surveyors met on June 25, 2003 in Conference Room 102 at the office of the Professional Licensing Boards, 237 Coliseum Drive, Macon, Georgia 31217.

BOARD MEMBERS PRESENT:

John H. Sweitzer, PE - Chairman
Robert T. Armstrong, LS
Torben S. Madson, LS
Richard K. Little, PE
E. Charles Vickery, PE
Guy F. Ritter, PE

BOARD MEMBERS ABSENT:

Tom D. Moreland, PE
William W. Dean, PE
Gloria B. Ransom, Public Member

STAFF PRESENT:

J. Darren Mickler – Board Executive Director
Julie Busbee – Board Secretary
Vivian Stephens – Board Application Specialist
Ajay Gohil – Attorney General Representative
Chris Mingeldorff – Intern, Professional Licensing Boards Legal Services Section

OTHERS PRESENT:

Tom Hurley, representing Surveying and Mapping Society of Georgia (SAMSOG)
Lane S. Bishop
Gary Higginbotham
Tej Kaul
Marilyn Moore
Michael D. Munteron

Call to order:

Chairman Sweitzer called the meeting to order at 9:32 am and presented a proposed agenda. Mr. Armstrong proposed to add the item, “Drainage Education for Land Surveyors.” Without objection, Mr. Ritter moved to adopt the amended agenda. Mr. Armstrong seconded. Motion carried.

Approval of Minutes:

Mr. Sweitzer asked for any additions or deletions to the minutes of the May 20, 2003 Board Meeting. There were none. Mr. Ritter moved to adopt the minutes. Mr. Little seconded. Motion carried.

Professional Societies and Guests:

Chairman Sweitzer recognized the designated representative of each professional society and welcomed the other visitors present.

5. Executive Director's Report:

Mr. Mickler reported that the staff is busy completing reviews of the October 2003 exam applications and expects to forward many of them to the Board Members for review as soon as possible.

Old Business:

6.1 Southern Zone Meeting – April 27-29, 2006 in Georgia:

Mr. Mickler reported that he has received a package from the National Council of Examiners for Engineers and Surveyors (NCEES) regarding the preparations for the Southern Zone Meeting to be held in Georgia in 2006. He has requested and received information from several hotels in Atlanta and Savannah. After discussion, Mr. Ritter moved to adopt the Westin – Savannah Harbor as the hotel of choice, with the Savannah Hyatt Regency as second choice. Mr. Little seconded. Motion carried.

6.2 NCEES Annual Conference – August 14-17, 2003 in Baltimore, Maryland:

Mr. Mickler reported that a tentative budget that included travel requests was turned in, but at this time it does not appear that any funds will be available. Chairman Sweitzer reported that he intended to attend whether or not he is funded.

Several Board members raised concerns that the Board is not as effective as it can be because funds were not appropriated for attending national and zone meetings and the Board will not have a voice on issues discussed. Mr. Madson moved to direct the Board Chairman to explore either privatization of the Board, lobby for a special levy to increase the budget and/or arrange a meeting of the Board Chairman, Executive Director, a representative of SAMSOG, a representative of the American Council of Engineering Companies of Georgia (ACEC/G), the Governor, the Lieutenant Governor and/or Speaker of the House to discuss appropriation of funds for the Board. Chairman Sweitzer will report on this item at the July 29, 2003 meeting. Mr. Little seconded. Motion carried.

Mr. Madson moved to send the Board's Executive Director to the NCEES annual meeting as the NCEES funded, but non-voting, member. Mr. Ritter seconded. Motion carried.

6.3 Review of Quality Based Selections (Mini-Brooks Act):

Mr. Ritter reported on O.C.G.A. § 15-22 and 32-4-63 citing the requirements for Quality Based Selection (QBS) of professional services by state agencies. Ajay Gohil, Assistant Attorney General assigned to the Board, discussed the subject of bidding professional services for public projects. He stated that he found that Board Rule 180-6-.06 and O.C.G.A. §§15-22 and 32-4-63 address the subject. He also cited a North Carolina statute and rule that addressed the subject. Mr. Madson moved to adopt the North Carolina model and direct Mr. Gohil to compare the North Carolina model to O.C.G.A. § 15-22. Mr. Gohil will report on this subject at the July 29, 2003 Board meeting. Mr. Vickery seconded. Motion carried.

6.4 Report of Status of Investigations of Complaint Cases:

This item was deferred to discussion during the Executive Session as a personnel matter.

6.5 Board Rule 180-2-.01 (5):

Mr. Mickler recommended deleting paragraph 5 of this Rule regarding applications and notary dates due to redundancy. Mr. Ritter moved to post with paragraph 5 deleted. Mr. Armstrong seconded. Motion carried.

6.6 Board Rule 180-2-.02:

Mr. Mickler reported that this rule regarding changing exam application deadlines has not yet been posted as he is working with the Legal Services section on the posting procedures. Mr. Madson moved that the Executive Director have authority to modify proposed Rules that have been approved by the Board for posting provided that the meaning of the proposed Rule remains unchanged. Mr. Little seconded. Motion carried.

6.7 Board Rule 180-2-.03:

Mr. Madson moved to add “date of notary” following “...application was filed”, and to delete the remainder of the paragraph, then post. Mr. Ritter seconded. Motion carried.

6.8 Board Rule 180-11-.08:

Mr. Mickler reported that this rule regarding clarifying continuing education requirements and exceptions for reinstatement applications has not been posted as he is working with the Legal Services section on the posting procedures. Mr. Madson moved to allow the Executive Director to post the proposed rule as long as the meaning of the rule is not modified. Mr. Little seconded. Motion carried.

6.9 Answer to Letter on Delineation of Evidence:

Mr. Armstrong presented a draft of a letter of response to Mr. Lane Bishop. Mr. Madson moved to amend the letter and to direct the Chairman and Executive Director to send the response to Mr. Bishop and make the contents of the letter a part of the minutes as a policy of the Board. Mr. Armstrong seconded. Motion carried. The letter, in its entirety follows:

“September 11, 2003

*Lane S. Bishop, LS
Lane S. Bishop and Associates
P O Box 1506
Blue Ridge, GA 30513*

Dear Mr. Bishop,

In your letter of February 19, 2003, you asked the following question:

What responsibility does a LS have in delineating “evidence” of a possible encroachment along or near a property line? This “evidence” could include but not be limited to previous surveys, deeds, previously set monuments, old fence lines, patrol (I believe you intended to type parol) evidence and etc. In other words, does this under current policies, rules or statute law require a LS to delineate all or any other “evidence” that may be in conflict, in his opinion, of where the true property line is located.

I refer you to Section 180-7-.02 paragraph (1) of the “Rules and Regulations” as established by the board.

(1) Every parcel of land whose boundaries are surveyed by a licensed land surveyor should be made conformable with the record title boundaries of such land. The land surveyor prior to making such a survey shall acquire all necessary data, including deeds, maps, certificates of title, centerline and other boundary line locations in the vicinity. He shall compare and analyze all of the data obtained and make most nearly correct legal determination possible of the position of the boundaries of such parcel. He shall make a field survey traversing and connecting all available monuments appropriate or necessary for the location, and coordinate the facts of such survey with the pre-determined analysis. Not until then shall the monuments marking the corners or such parcel be set, and such monuments shall be set in accordance with the full and most satisfactory analysis obtainable.

I feel the key sentence in this section is “The land surveyor prior to making such a survey, shall acquire all necessary data, including deeds, maps, certificates of

title, centerline and other boundary line locations in the vicinity.” This clearly states that you or any other surveyor shall acquire all documents and other evidence available to them that would influence the decision as to where the property line actually is located on the ground. That portion of the above referenced sentence stating “and other boundary line locations in the vicinity” I feel covers that part of your question concerning evidence. This evidence can be monuments, fences parol evidence or any other information or physical features that could be evidence of another location of the property line or be evidence of an adverse claim of title. The phrase “acquire all necessary data” and “He shall make a field survey traversing and connecting all available monuments appropriate or necessary for the location,” indicate to me that as well as determining that there is physical evidence on the ground he is required to locate this and consider it in his determination of the actual location of the property line on the ground. There may be instances where documents are not available and evidence is not found. This does not relieve the surveyor of this duty to search them out.

I hope this answers your questions.

Sincerely,

John H. Sweitzer, Chairman

Darren Mickler, Executive Director”

6.10 Exemption of Certificate of Authorization:

Mr. Ritter moved to adopt a policy to be converted into a rule at a later date, that sole proprietorships shall be exempt from Certificate of Authorization requirements if the registrant is practicing under his/her individual registration. Mr. Little seconded. Motion carried.

6.11 Notification of Experience for LSIT/EIT Exam Applicants:

Mr. Ritter moved to postpone this item until the next regular Board meeting. Mr. Madson seconded. Motion carried.

6.12 Georgia Association of Residential Engineers (GARE):

Mr. Ritter presented a status report on his research into the questions the Georgia Association of Residential Engineers has raised. Mr. Madson moved for Mr. Gohil to research the questions, draft a response and bring his findings to the next meeting. Mr. Little seconded. Chairman Sweitzer recognized the GARE members who were present and listened to comments from Mike Muntean, a representative of the association.

6.13 Letter to the Georgia Environmental Protection Division (EPD) Requesting List of Entities That Have Been Designated to Approve Water and Sewer Plans:

Mr. Mickler reported that he has sent a request to the EPD and has not yet received a response.

6.14 Board Procedure for Assigning Conferences:

Mr. Mickler requested that the Board adopt a policy to allow staff to accept a request for an informal conference only in writing, after which staff would send a copy of the request along with a copy of the application file and the applicant's contact phone number to the first reviewer of that applicant. The first reviewer would then contact the applicant and attempt to resolve the matter through a phone conference. If the matter cannot be solved through phone conference, then the applicant and first reviewer would then make an appointment to meet for an interview at a mutually agreed time and place, but not on a Board meeting day. Mr. Madson moved to adopt the proposed policy to be converted into a rule at a later date, and amended that all correspondence must come through the Board office and not be sent directly to the Board members from the applicants. Mr. Little seconded. Motion carried. Chairman Sweitzer directed the Executive Director to immediately proceed with this policy.

New Business:

7.1 Review of EIT's Based on Experience:

There was discussion regarding the procedure of having EIT applicants who are basing on experience to send detailed description of job duties on endorsement forms along with their applications. Ms. Stephens commented that this was the procedure currently being followed. No action was taken.

7.2 Procedure of Cognizant Review of Potential Complaints:

There was discussion regarding the procedure of handling complaints by office staff. For those complaints that the Board staff considers to be out of the jurisdiction of the Board, the complaint will be acknowledged by sending a letter to the complainant, and then forwarded to the appropriate Cognizant Board Member for review. If the Cognizant Board Member agrees that the Board has no jurisdiction, the staff will then send a response letter to the complainant reporting that the Board cannot proceed with investigation and a case will not be opened. If the Cognizant Board Member feels that the complaint needs investigating, a case will be opened. If the Board staff recognizes that the complaint has merit, a case will be opened immediately and forwarded to the Board Chairman for assignment to the appropriate Cognizant Board Member.

7.3 Drainage Education for Land Surveyors:

Mr. Armstrong moved to adopt a policy to be converted into a rule at a later date, to require all land surveyor applicants to meet Georgia requirements of 15 quarter hours of acceptable land surveying coursework and 5 quarter hours of hydrology. Mr. Ritter

seconded. Chairman Sweitzer directed Mr. Armstrong to draft a policy and bring to the next meeting for final approval.

Executive Session:

At. 11:40 AM, Mr. Madson moved to enter into Executive Session to deliberate on applications and enforcement matters and to receive information on applications and investigative reports. Mr. Ritter seconded. Motion passed.

Reconvened Open Session at 12:37 pm with the following Board members present - Chairman Sweitzer, Mr. Armstrong, Mr. Vickery, Mr. Madson, Mr. Ritter:

Investigations and Complaints

PELS999900036 – This case involves a Professional Engineer who is stamping land surveys he did not perform. Mr. Madson moved to revoke the respondent's Professional Engineer's license and invoke a fine of \$5,000. Mr. Armstrong seconded. Motion carried by unanimous vote.

- While investigating the above case, it was discovered that the respondent was plan-stamping surveys for another unlicensed individual. Mr. Madson moved to open a Board-initiated complaint case on this person for unlicensed practice of land surveying. Mr. Armstrong seconded. Motion carried by unanimous vote.

PELS02200086 – This case involved allegations of a Professional Engineer having a felony conviction. Investigation found that there was no felony conviction. Mr. Madson moved to close this case with no violations found. Mr. Armstrong seconded. Motion carried with unanimous vote.

• Board Memo EIT Exam Applicants:

Applicants for certification as an Engineers-in-Training by examination whose degrees were earned in engineering or engineering technology programs which attained ABET/CAB accreditation within two years of their having received their degrees, who have filed with the Board five acceptable references, who have had no convictions for moral turpitude or substantive reasons, and who comply in every way with the provisions of the appropriate law(s), are as follows:

Abella, Amelia Tampoc P.
Braswell, William Keith
Buck, Ellen E.
Butler, Andre J.
Clark, Cyla C.
Davidson, Travis O'Neal
Davis, Tevin S.
Delamar, Eric Sinclair
Doubrava, Jeffrey Ames

Gutierrez, Sandra M. Castro
Haponski, Michael Anthony
Holland, Tommy J.
Kennedy, Rye James
Kim, Hoe Kyoung
Ludwig, Christopher Stephen
Matthews, Timothy Wayne
McGhee, Danien Ali
McStotts Jr., Charles Arvil

Ofosu, Harry Y.
Penuel, Thaddeus Rex
Reynolds, David Alan
Sabbarese, Brannon Michael
Shirley, Richard M.
Smith, Judith Caryl S. S.
Terry, Aaron R.
Thamizharasan, Akila
Wellborn, James Christopher

Mr. Ritter moved to approve these applicants for EIT certification @ 43-15-8(1) or 43-15-8(2). Mr. Vickery seconded. Motion carried.

• Board Memo Comity Model Law Applicants:

Applicants for registration as Professional Engineers by comity, who have an ABET engineering degree, who have taken and passed an 8-hour fundamentals of engineering (EIT/FE) exam, who have a minimum of 48 months post graduation engineering experience as determined by a staff evaluation using the present Board guidelines, who have taken and passed an 8-hour principles and practice of engineering exam (PE Exam-taken at least 4 years after BS degree), and who comply in every way with the provisions of the appropriate law(s), are as follows:

28788 Pingis, Paul J.

28791 Fox, Thomas E.

28792 Jaks, Brian N.

28793 Mukabakaba, Fedi T.

28794 Rhinehardt, Keith E.

28798 McConnell, William E.

28799 Richmond, Michael H.

28800 Tatarian, Mark D.

28813 Collins, Michael A.

Mr. Madson moved to approve these applicants for PE registration by comity @ 43-15-16(a), via 43-15-8(1) and 43-15-9(1). Mr. Ritter seconded. Motion carried.

There being no further business before the Board, Chairman Sweitzer asked for a motion to adjourn. Mr. Madson so moved. Mr. Vickery seconded. Motion carried and the meeting was adjourned at 12:45 pm.

Board Chairman

Division Director